

116TH CONGRESS  
2D SESSION

# H. R. 6576

To prohibit depository institutions from assessing overdraft and nonsufficient fund fees during the novel coronavirus crisis and other disasters, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2020

Mr. CICILLINE (for himself and Mrs. CAROLYN B. MALONEY of New York) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To prohibit depository institutions from assessing overdraft and nonsufficient fund fees during the novel coronavirus crisis and other disasters, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Stop Overdraft Profit-  
5 eering during COVID–19 Emergency Act of 2020”.

**6 SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds the following:

8           (1) Overdraft coverage is a form of short-term  
9           credit that depository institutions market for con-

1       sumer transaction accounts. Historically, depository  
2       institutions covered overdrafts for a fee on an ad hoc  
3       basis.

4           (2) With the growth in specially designed soft-  
5       ware programs, and in consumer use of debit cards,  
6       overdraft coverage for a fee has become more preva-  
7       lent.

8           (3) Many depository institutions market a  
9       range of overdraft options but aggressively encour-  
10       age consumers to consent to the most expensive op-  
11       tion, where a high flat fee is collected for each indi-  
12       vidual overdraft transaction.

13          (4) Many depository institutions—

14              (A) collect a high flat fee, including for  
15       small dollar transactions, each time the institu-  
16       tion covers an overdraft, impose multiple over-  
17       draft coverage fees within a single day, and  
18       charge additional fees for each day during  
19       which the account remains overdrawn; and

20              (B) charge unreasonable nonsufficient fees.

21          (5) Such abusive practices in connection with  
22       overdraft coverage fees and nonsufficient fees have  
23       deprived consumers of meaningful options and  
24       placed significant financial burdens on low- and  
25       moderate-income consumers.

1                 (6) During the public health and financial crisis  
2                 caused by the novel coronavirus, consumers need re-  
3                 lief from such abusive practices more than ever be-  
4                 fore.

5                 (b) PURPOSE.—It is the purpose of this Act to pro-  
6                 tect consumers by eliminating abusive overdraft coverage  
7                 fees, nonsufficient fund fees, and practices relating to the  
8                 assessment of those fees during covered periods.

9                 **SEC. 3. DEFINITIONS.**

10                 In this Act:

11                 (1) CHECK.—The term “check”—  
12                         (A) has the meaning given the term in sec-  
13                         tion 3(6) of the Check Clearing for the 21st  
14                         Century Act (12 U.S.C. 5002(6)); and

15                         (B) does not include a traveler’s check.

16                 (2) CHECKING ACCOUNT PENALTY FEE.—The  
17                 term “checking account penalty fee” means a non-  
18                 sufficient fund fee or an overdraft coverage fee.

19                 (3) CONSUMER.—The term “consumer” has the  
20                 meaning given the term in section 103(i) of the  
21                 Truth in Lending Act (15 U.S.C. 1602(i)).

22                 (4) CONSUMER REPORTING AGENCY.—The term  
23                 “consumer reporting agency” has the meaning given  
24                 the term in section 603 of the Fair Credit Reporting  
25                 Act (15 U.S.C. 1681a).

1                             (5) COVERED PERIOD.—The term “covered pe-  
2                             riod” means—

3                                 (A) the period that begins 1 day after the  
4                             date on which a major disaster is declared by  
5                             the President under section 401 of the Robert  
6                             T. Stafford Disaster Relief and Emergency As-  
7                             sistance Act (42 U.S.C. 5170), where assistance  
8                             is authorized under section 408 of that Act (42  
9                             U.S.C. 5174), and ending 120 days after the  
10                            end of the incident period for that disaster; or

11                                 (B) the period that begins 1 day after the  
12                             date on which the President determines an  
13                             emergency exists under section 501(b) of the  
14                             Robert T. Stafford Disaster Relief and Emer-  
15                             gency Assistance Act (42 U.S.C. 5191(b)) and  
16                             simultaneously covers all States for a single in-  
17                             cident, event, or emergency and ending 120  
18                             days after the end of the incident period for  
19                             that emergency.

20                             (6) DEPOSITORY INSTITUTION.—The term “de-  
21                             pository institution” has the same meaning as in  
22                             clauses (i) through (vi) of section 19(b)(1)(A) of the  
23                             Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

24                             (7) NONSUFFICIENT FUND FEE.—The term  
25                             “nonsufficient fund fee” means a fee or charge as-

1       sessed in connection with an overdraft for which a  
2       depository institution declines payment.

3                     (8) OVERDRAFT.—The term “overdraft”  
4       means, in a withdrawal by check or other debit from  
5       a consumer transaction account in which there are  
6       insufficient or unavailable funds in the account to  
7       cover such check or debit, the amount of such with-  
8       drawal that exceeds the available funds in the ac-  
9       count.

10                  (9) OVERDRAFT COVERAGE.—The term “over-  
11       draft coverage” means the payment of a check pre-  
12       sented or other debit posted against a consumer  
13       transaction account by the depository institution in  
14       which such account is held, even though there are  
15       insufficient or unavailable funds in the account to  
16       cover such checks or other debit.

17                  (10) OVERDRAFT COVERAGE FEE.—The term  
18       “overdraft coverage fee” means any fee or charge  
19       assessed in connection with overdraft coverage, or in  
20       connection with any negative account balance that  
21       results from overdraft coverage, excluding—

22                     (A) a periodic rate in connection with an  
23       extension of credit through an overdraft line of  
24       credit program; or

(B) a fee or charge imposed in connection with any transfer from an account linked to another transaction account.

(12) TRANSACTION ACCOUNT.—The term  
“transaction account” has the meaning given the  
term in section 19(b)(1)(C) of the Federal Reserve  
Act (12 U.S.C. 461(b)(1)(C)).

## **12 SEC. 4. CHECKING ACCOUNT PENALTY FEES.**

13 (a) PROHIBITION.—

21                         (2) CORRECTION.—If a depository institution  
22                         assesses a checking account penalty fee during a  
23                         covered period in violation of paragraph (1), the de-  
24                         pository institution shall be considered to be in com-

1 pliance with that paragraph if the depository institu-  
2 tion promptly reverses that assessment.

3 (b) REPORTS TO CONSUMER REPORTING AGEN-  
4 CIES.—During a covered period, no depository institution  
5 may report negative information regarding the use of over-  
6 draft coverage by a consumer to any consumer reporting  
7 agency.

8 (c) LIMITATION WITH RESPECT TO STATE-SPECIFIC  
9 DISASTERS.—With respect to a major disaster described  
10 under section 3(5)(A), this section shall only apply to a  
11 customer of a depository institution who is a resident of  
12 the State or Tribe where the major disaster was declared.

13 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion may be construed as prohibiting a depository institu-  
15 tion, during a covered period, from retaining the discretion  
16 to pay, without assessing a checking account penalty fee,  
17 an overdraft incurred by a consumer.

